

LINCOLN PLANNING BOARD

AUGUST 24, 2011

APPROVED

The regular meeting of the Planning Board was held on Wednesday, August 24, 2011, at the Lincoln Town Hall, 100 Old River Road, Lincoln, Rhode Island.

Chairman Olean called the meeting to order at 7:02 p.m. The following members were present: Gerald Olean, Kenneth Bostic, Timothy Griffin, Michael Reilly and Jeffrey Delgrande. Also in attendance were Town Planner Al Ranaldi, Town Solicitor Anthony DeSisto and Town Engineer Laszlo Siegmund. Russell Hervieux kept the minutes.

The following member was absent from this meeting: John Hunt. Member Hunt called the Chairman and was excused.

Chairman Olean advised that five members were present; have quorum.

CONSENT AGENDA

Chairman Olean reminded members that the consent agenda has (3) zoning applications and staff reports. A consent agenda is normally voted on in total unless a member motions to remove an item.

Motion was made by member Griffin to accept the consent agenda as presented was seconded by member Reilly. Motion was approved by all members present.

MAJOR SUBDIVISION REVIEW

a. Kirk brae Ledges Subdivision-Phase 11 AP 32 Lot 45 Preliminary Plan

**Kirk brae Ledges, LLC Lancers Ln. & Hemlock
Rd. Discussion/Approval**

Nicholas Goodier, attorney for the applicant, made a presentation to the Board. Mr. Goodier stated that the applicant is before the Board tonight to discuss the preliminary plan application which was certified complete on August 10, 2011. The applicant recently met with the TRC and is here tonight to discuss some waivers that will be required. The master plan for this project was approved in October of 2006. Since master plan approval the plans have been modified. Before the Board tonight is preliminary plan which reduces the number of house lots by one and the number of waivers requested. The waivers being requested are listed in the TRC report as well as on sheet C2.0 of the plans. Member Reilly asked for a clarification on the number of waivers. The master plan approval granted eleven waivers and this preliminary plan reduces the number of waiver requests to seven. Waivers #6 and #7 were not part of the master plan approval.

Chairman Olean asked Mr. Goodier if he had any new submissions that he would like to submit tonight. Mr. Goodier stated he does not have any submissions tonight but does have a meeting tomorrow with the Fire Marshal to discuss the reduction of pavement width. Member Reilly asked what the purpose of reducing the right of way from 50 feet to 40 feet was. Mr. Goodier responded that the portion of right of way reduction will be for an easement to install sewer force mains for some of the house lots. Mr. Goodier also stated that the reduction of pavement width from 30 feet to 24 feet is to save the Town money for future maintenance costs. Member Reilly asked the Town Planner to give an explanation of this reduction from the Town's point of view.

Mr. Ranaldi stated that the reduction in pavement came out of discussions about the five houses that would be on force main sewers. This application calls for ten house lots in which five are gravity fed sewer and five will be on private force mains which will feed into the gravity sewer. The Town prefers gravity fed sewers. As part of negotiations the applicant will provide private easements on private property to run the force main sewers until they get to the gravity line. Those discussions led to the reduction of pavement widths which also affects the size of the detention basins. This would only be a single road which will never be connected to another road that somewhat justified the reduction of pavement width. The TRC made the suggestion to reduce the pavement width to 24' and the applicant agreed. This would reduce future maintenance costs for

the Town. The Police Chief has offered a positive recommendation for this reduction. Member Reilly inquired as to how the Town could assure that the homeowners are maintaining the private force mains before it leads to problems. Attorney Goodier offered that a Homeowners Association will have to be created that the members of the lots on the force mains would be part of. This would be part of the property deeds. A condition of approval could be that a maintenance agreement be supplied to the Town for the force mains and to be paid for by the Homeowners Association. Town Solicitor Anthony DeSisto had some concerns about this agreement. Mr. DeSisto stated that the agreement should not create duties for the Town. The Homeowners Association would be responsible to correct any/all malfunctions of this private sewer and the Town would have no responsibility. The key would be not to have the agreement sent to the Town but to have it on the recorded documents so it is clear it is a private issue.

Mr. Ranaldi gave a summation to his comments. Mr. Ranaldi stated that TRC reviewed the subdivision waivers. There were originally 11 waivers mostly for steep slopes and easements. The applicant is now asking for 7 waivers. Waiver number 4 is for a dead end road length which requires a maximum of 720 feet. The applicant is asking for a road length of 844 feet which is 24 feet longer than in the master plan submission. The Board should discuss and feel comfortable with waivers 5, 6 and 7. The TRC was comfortable with waivers 1 through 6 but felt Board should decide waiver #7. Attorney Goodier stated he

believes that each application has to stand on its own merit so the reduction of pavement width would not set a precedent. Chairman Olean stated that the Town has been told that lot #12 is acceptable to RIDEM. Chairman Olean asked Mr. Goodier if he had any documentation that proves that statement. Mr. Goodier replied that he did not have anything tonight but could produce that documentation to the Board. Chairman Olean would like the Town to review the TRC report in the engineering section. That section basically says the plan is acceptable as a civil design but does not mention the waivers from the subdivision regulations which would make it not acceptable in the civil design.

Chairman Olean asked why the applicant is asking for a waiver from the sidewalk requirement. Mr. Goodier replied that this also came out of the TRC meetings and installing sidewalks would not offer any pedestrian connection to any other sidewalks. The intersecting existing roadways do not contain sidewalks. The applicant believes there will be limited foot traffic with this development and there wouldn't be a connection point for the sidewalk. Chairman Olean asked if the sidewalk would connect the ten proposed house lots. Mr. Goodier replied that it would connect them. Chairman Olean stated that with that fact there would be a connection for the sidewalk. Chairman Olean was concerned that life safety was not part of the applicant's decision to propose eliminating sidewalks. Mr. Goodier had no response. Member Bostic inquired whether the pavement reduction request is for the entire road length. Mr. Goodier replied

no. The Lancer Lane extension will remain at 30 feet wide. The area of road with the reduced pavement width is the new road between the two cul-de-sacs. The cul-de-sacs will meet the subdivision regulations. Chairman Olean inquired how much length of roadway will be the reduced width. Attorney Goodier referred the question to the Engineer. Cari Powers, engineer for the applicant, replied that the longest section of the new road will be the reduced width. Member Bostic clarified that it is the intention of the applicant to reduce the road width by six feet and eliminate sidewalks. Ms. Powers stated that is the case.

Mr. Ranaldi stated he neglected to mention two items. This project has a considerable amount of ledge. There will be some blasting of ledge required. There will also be three retaining walls which will ultimately be Town owned. The TRC makes part of its recommendation for the applicant to hire a third party engineer to monitor and certify the installation of those retaining walls. The Town would work with the applicant to get proper inspections done of the infrastructure since this is a tough site to develop. It is imperative that the walls get the proper inspections during installation to protect the Town which is why the Town would recommend a third party engineer. Chairman Olean asked the Town Engineer how this situation should be handled from an engineering standpoint. Mr. Siegmund stated the Town will have to determine what points the installation should be inspected which could be often. The engineering sign off by the third party engineer should satisfy these

points. Much discussion went back and forth as to the extent of how much time a third party engineer should spend on site. Mr. Goodier stated that he spoke with his client and they will come up with some type of schedule for the Town to review regarding the third party engineer before the next meeting. Chairman Olean stated that he does not agree with waiver #5 removing sidewalks. Member Reilly agreed with Chairman Olean.

Motion mad by member Reilly to defer this application to next month's agenda was seconded by member Bostic. Motion was approved by all members present.

MAJOR LAND DEVELOPMENT REVIEW

a. 90 Industrial Circle AP 2 Lot 82 Master Plan

A.F. Homes, LLC Walker Street & Industrial Circle Extension

Joelle Sylvia, attorney for the applicant, made a brief presentation to the Board. Ms. Sylvia stated that the Board is familiar with this application so she won't add anything further. Ms. Sylvia was open to any questions the Board may have. Chairman Olean asked if Ms. Sylvia was familiar with the TRC report. Ms. Sylvia stated she was familiar and had no issues with the TRC recommendations. Chairman Olean asked the Town Solicitor if the TRC recommendation is in the right legal format. Mr. DeSisto stated that it was in the right format.

Mr. DeSisto further commented that this decision would not fall under the current tolling law so if the Board chooses to grant the extension a deadline should be placed on it.

Motion was made by member Bostic to accept the TRC recommendations for a master plan extension of one year until August 25, 2012. The motion was seconded by member Griffin. Motion was approved by all members present.

SECRETARY'S REPORT

The Board was given two sets of minutes to review. They are for April 27, 2011 and June 22, 2011. The Town Planner Al Ranaldi stated that he has reviewed these minutes.

Motion made by member Griffin to dispense with the reading of the April 27, 2011 minutes and accept as presented was seconded by member Delgrande. Motion was approved by all members present.

Motion made by member Griffin to dispense with the reading of the June 22, 2011 minutes and accept as presented was seconded by member Reilly. Motion was approved by all members present.

Motion made by member Reilly to adjourn at was seconded at 8:04 pm by member Griffin. Motion was approved by all members

present.

Respectfully submitted,

Russell Hervieux

Technical Review Committee

August 12, 2011

Town of Lincoln – Planning Board

100 Old River Road

Lincoln, RI 02865

Dear Honorable Members,

On August 10, 2011 at 1:30 pm, the Technical Review Committee met to review the agenda items for the August 24, 2011 meeting of the Planning Board. In attendance were Al Ranaldi, John Faile, Laszlo Siegmund, Russell Hervieux, Michael Gagnon, Gerald Olean, and

Michael Gamage. Below are the Committee's recommendations.

Major Subdivision Review

a. Kirkbrae Ledges Subdivision – Phase 11 AP 32 Lot 45 Preliminary Plan Discussion /

- Kirkbrae Ledges, LLC Lancers Lane Approval

This major subdivision project is under the 2005 Subdivision Regulations and represents the subdivision of one lot into 10 single-family residential lots and one undeveloped lot to be deeded as permanent open space. The ten house lots are proposed to be developed off of an extension of Lancers Lane. This street extension will have two new cul-de-sacs. On October 26, 2006, the Master Plan was approved with conditions and several waivers of the subdivision regulations. The master plan approval was for 11 single-family residential lots. Several extensions were granted by the Planning Board.

On August 10, 2011, the project received a Certificate of Completeness. According to our Subdivision Regulations, the Planning Board shall, within one hundred twenty (120) days of certification of completeness, or within such further time as may be consented to by the applicant, approve the preliminary plan as submitted, approve with changes and/or conditions, or deny the applicant, according to the requirements of Section 8. A decision on the preliminary plan review must be made by December 8, 2011, or within such further time as may be consented to by the applicant.

The Technical Review Committee reviewed the proposed development according to the Land Development and Subdivision Regulations preliminary plan submission requirements. The submission includes a full size set of plans entitled "Kirkbrae Subdivision, Phase 11, dated August 2011 prepared by Pare Corporation for Kirkbrae Ledges, LLC. The plan set contains 21 pages. The submission also contained a report entitled, "Hydrologic Analysis and Design – Kirkbrae Ledges, LLC, Assessor's Map 32, Lot 45, Lincoln, Rhode Island", dated July 2006 revised May 2008, prepared by Pare Corporation for Kirkbrae Ledges, LLC. A project narrative and relief requested report was submitted on June 15, 2011. Below are the Technical Review Committee comments.

Site Plan:

The parcel of land is located southeast and parallel to Timberland Drive. Three existing streets - Tallwood Road, Hemlock Road, and Lancers Lane, end at the property line of this parcel. The subject lot consists of 18.477 acres. Approximately half of the lot can be characterized as wetlands while the other half can be characterized as wooded upland with significant outcroppings of ledge. The proposed major subdivision application is for the development of 10 new single family house lots with associated public improvements and drainage infrastructure. The current version of this subdivision is the result of a coordinated effort with Rhode Island Department of Environmental Management and several meetings with members of the Technical Review Committee.

A review of the plans for Kirkbrae Ledges subdivision, prepared by Pare Corporation dated August 2011 was undertaken by the Town Engineering Department. It is noted that the review was not intended to check and verify all design, such as lot areas, horizontal and vertical alignment, only to determine the general conformity of the plans with the Town of Lincoln Zoning and Subdivision Regulations, for the presentation of the required information and for over-all constructability. It was also conducted to see the disposition of note provided to the designers on April 4, 2011. The comments dated April 4, 2011 were addressed in a letter from Pare, dated August 5, 2011. In this letter Pare agreed with a preponderance of the comments made and indicated that changes were made to the plans. These changes were spot checked and found them to be accurate. The review by the Town Engineer concluded that the proposed design meets all of the Town's Subdivision Regulations relating to civil engineering.

The new house lots will be accessed from the extension of Lancers Lane and the construction of a new 844 foot long public right-of-way with both ends terminating with cul-de-sacs.

According to the subdivision regulations, the maximum length of any new roadway will be 720 feet long. The proposed roadway will require a subdivision waiver. This waiver was discussed and approved at the Master Plan review stage.

The applicant is requesting a subdivision waiver of the allowable width of the public right-of-way from 50 feet down to 40 feet. The applicant is also requesting a subdivision waiver to reduce the pavement width. The proposed pavement width will be reduced from

30 feet to 24 feet wide with 8 feet of grassed easement area running along each side of the paved area. These waivers are requested in order to reduce the amount of impervious pavement of the new roadway which will in turn reduce the size of the retention basins. The applicant also points out that the proposed street is not a through street but a dead end that will only service 10 single family house lots. The TRC agrees with the rational of these waivers. However, the TRC asked the applicant to have the local fire department review their proposal. If the local fire department supports this roadway configuration, a letter to that affect should be issued and submitted to the Planning Board for their consideration. The Director of Public Works has reviewed this roadway configuration and supports the requested waivers.

The applicant is requesting a subdivision waiver of the requirement of paved sidewalks along the new roadway. The applicant pointed out that the abutting neighborhood does not have sidewalks. The required sidewalks will only serve the new house lots. The TRC discussed this waiver but could not come up with a recommendation for the Planning Board. The TRC asks that the Planning Board discuss the pros and cons of this waiver further.

A site visit showed that the pavement of Lancers Lane is quite poor with many cracks and signs of inappropriately prepared base. The plans show partial repaving of the roadway. However, the public works department would prefer that the entire roadway be repaved. This preference could be a condition of preliminary plan approval. The site is very rugged. Significant outcroppings of ledge can be

seen throughout the proposed are to be developed. There is a high probability that several methods of ledge removal will be required. Blasting is one of the likely methods. The TRC recommends as a condition of Preliminary Plan approval that the applicant closely follows all State requirements regarding blasting.

This rugged site also requires the need for several retaining walls. These walls will ultimately become part of the public right-of-way and the responsibility of the Town. The TRC recommends that as a condition of preliminary plan approval, the developer hires a third party engineer who will supervise the construction of the proposed retaining walls and provide the Town with the proper documentation stating that the engineer supervised the construction of the retaining walls and that the retaining walls have been constructed in accordance with the recommended installation methods.

The property has extensive wetlands on it. The majority of the wetland complexes are located to the west of the proposed development. However, a section of one of the proposed house lots is located within a 200 foot riverfront buffer area. Therefore, house lot #12 does not conform to the minimum buildable area due to a 200 foot riverfront buffer area and would require a waiver of the subdivision regulations. The TRC was told by the applicant that the RIDEM has reviewed this proposed house lot configuration and feels that it is acceptable. The TRC reviewed the house lot configuration and the need for a subdivision regulation waiver. The TRC feels that based on the unique characteristics of the property, the waiver is acceptable.

Public Utilities:

All public utilities will be underground. Due to the existing and proposed topography created by this rugged site, five of the new houses are proposed to be connected to the public gravity sewer system by private force mains running along private easements. The TRC reviewed this option and feels that it is an acceptable method as long as each force main is located on private property. The each new homeowner will have to be notified of their responsibility for this system. The notification can be done within each deed. This notification language should be reviewed by the Town Solicitor. All houses will be directly serviced with public water.

The need for private easements running along some of the property lines has created minimum buildable lot area issues for two proposed house lots. Lot #1 and Lot #5 do not conform to the minimum buildable area due to steep slopes and the presence of private easements. A waiver from the subdivision regulations would be required for each house lot. The TRC reviewed these two waivers and feel that they are reasonable due to the unique characteristics of the property.

An additional 20 foot wide easement running from the proposed roadway through town owed property (AP30 Lot 9) and down to state highway system (Rt. 295) will provide a connection of water, sewer, gas, electric, and telecomm utilities for the proposed I-295 southbound rest area. This easement will also provide an additional public water connection across I-295 which will improve water system

operation and fire protection capabilities for the Town of Lincoln. This easement was a negotiated condition of development with the State of Rhode Island. The requirement of the developer to provide an easement to the State of Rhode Island for use at the I-295 northbound rest area could be a condition of preliminary plan approval. Easement language will have to be worked out between the State of Rhode Island and the Town of Lincoln for the portion of town owned land where the future utilities will be installed.

Subdivision Waivers:

The Planning Board approved a total of 11 subdivision waivers for this project at the Master Plan review stage. At this review stage, ten proposed house lots required and received a waiver from the minimum buildable lot area. These lots contained steep slopes and/or easement areas. The applicant also was granted a waiver from the maximum length of the roadway from 720 feet to 820 feet. As stated above, the applicant has spent significant time and effort with RIDEM and the TRC to develop the current development plans. At the Preliminary Plan review stage of this subdivision, the applicant is requesting seven waivers from the subdivision regulations. The waivers are as follows:

1. Lot #1 does not conform to the minimum buildable area due to steep slopes and easements.
2. Lot #5 does not conform to the minimum buildable area due to steep slopes and easements.
3. Lot #12 does not conform to the minimum buildable area due to a

200 foot riverfront buffer area.

4. The length of the proposed roadway from the allowed 720 feet to 844 feet.

5. Eliminate proposed sidewalks throughout the development.

6. Reduce the right-of-way width from 50 feet to 40 feet

7. Reduce pavement width from 30 feet to 24 feet wide with 8 feet of grassed area running along each side of the paved area.

The TRC reviewed each of these waivers and feels that based on the unique characteristics of the property, six of the seven subdivision regulation waivers are acceptable. As stated above, the applicant is requesting a subdivision regulation waiver for the requirement of sidewalks. The applicant noted that the abutting existing neighborhood does not have sidewalks and therefore the new sidewalks would not link to an existing system. The TRC discussed this waiver but could not come up with a recommendation for the Planning Board. The TRC asks that the Planning Board discuss the pros and cons of this waiver further.

Based on the preliminary plan review conducted by the TRC, the TRC recommends that the applicant incorporate the comments presented by the Town Engineer and the TRC and review in September for a public hearing. An abutters list will need to be updated and delivered to the Town Planner a minimum of three weeks before the September meeting.

Major Land Development Review

**a. 90 Industrial Circle AP 2 Lot 82 Master Plan Extension
- A.F. Homes, LLC Walker Street & Industrial Circle**

This land development project is for the construction of forty-eight (48) residential units in an existing 41,480 square foot mill building. This project received Master Plan approval with conditions on April 25, 2007. Several master plan extensions have been granted. On July 5, 2008, the General Assembly amended the vesting period set forth in R.I. Gen. Laws §45-23-40. The Town and the applicant disagreed with the vesting period of this particular project. Ultimately, this dispute was settled during a mediation session held according to the procedures of the Rhode Island Supreme Court.

Based on this mediated agreement, the applicant appeared before the Planning Board on August 25, 2010 and was granted a reinstatement of their project as a vested Master Plan with conditions. The Planning Board also established a vesting period of one year. Therefore, the reinstated Master Plan was vested to August 25, 2011. A letter dated August 3, 2011 from Joelle C. Sylvia of the Law Offices of Michael A. Kelly was submitted. This letter was submitted as a follow-up to last month's Planning Board meeting. A copy of this letter is enclosed in your packets.

The applicant submitted a letter to the Administrative Officer on July 5, 2011 requesting an extension to the recently amended R.I. Gen. Laws §45-23-40 vesting period of July 2013. The letter explained that the applicant has been actively pursuing his rights to purchase the property. Unfortunately, the property fell into foreclosure. The

applicant was precluded from taking any action on behalf of the property including negotiating with RIDEM to resolve their concerns about the site and meet one of the conditions of approval. The letter goes on to state that the applicant is now in a position to rightfully proceed forward with the project.

The Technical Review Committee took the applicant's request into consideration. The TRC also took into consideration the outcome of past litigation and the mediated agreement. Therefore, based on the spirit of the mediated agreement, the outcome of past litigation, and the issues presented in the letter dated July 5, 2011, the Technical Review Committee feels that the applicant has presented good cause for an extension and therefore recommends that the master plan approval for this project be extended for one additional year to August 25, 2012.

Zoning Applications (*) – September's Zoning Applications

Jeanne Poirier, P.O. Box 284, Millville, MA - - Application for Dimensional Variance to correct existing dimensional non-conformities on house and garage as part of a subdivision for property located at 141 Old Main Street, Manville, RI
AP 36, Lot 75 Zoned: RG 7

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed dimensional variance is to clear up pre-existing non-conforming

variances of record associated with the existing house and garage. The proposed subdivision has not created the need for the applicant to request dimensional relief. However, it is the Town's policy to clear up any pre-existing variances on a property when the property owner seeks permission to do something to their property. The Technical Review Committee recommends Approval of this application. The TRC feels that the proposed subdivision has not created the need for dimensional variances. The variances represent pre-existing dimensional non-conformities on the house and garage. The Technical Review Committee finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Christopher R. Kirby, 32 Wilbur Road, Lincoln, RI – Application for Use Variance seeking relief to construct an accessory structure (garage) in the front yard.

AP 27, Lot 40 Zoned: RA 40

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Technical Review Committee recommends Denial of the application for a use variance to construct an accessory structure (garage) in the front yard. The TRC feels that the application does not meet all of the standards for relief of a use variance as presented in the Zoning Ordinance. The TRC feels that the proposed garage size and location is not the least

relief necessary. More specifically, the proposed garage size will reduce access to the existing house located in the rear portion of the property. The access path between the proposed garage and the property line would be reduced to 10 feet 4 inches. Members of the TRC raised concerns about how accessible the house would be in cases of emergency.

Christopher R. Kirby, 32 Wilbur Road, Lincoln, RI – Application for Dimensional Variance seeking side and rear yard relief for the addition of a covered porch on existing house and side relief for the construction of a garage.

AP 27, Lot 40 Zoned: RA 40

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Technical Review Committee recommends Denial of the application for dimensional variances seeking side and rear yard relief for the addition of a covered porch on the existing house and side relief for the construction of a garage. The TRC feels that the application does not meet all of the standards for relief of a dimensional variance as presented in the Zoning Ordinance and that the proposed size of the covered porch and garage are not the least relief necessary. More specifically, the proposed garage size will reduce access to the existing house located in the rear portion of the property. The proposed covered porch will almost eliminate access to the back of the house. The TRC feels that the proposed sizes and locations of

the covered porch and garage are excessive and may create safety issues in the future. The TRC feels that the applicant can easily downsize both structures and gain the same benefits they are seeking with the proposed structures.

Correspondence/Miscellaneous

a. Staff Reports

Respectfully submitted,

Albert V. Ranaldi, Jr. AICP

Albert V. Ranaldi, Jr. AICP

Administrative Officer to the Planning Board